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U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

DEPUTY

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

MERCEDES ALCOSER,

Plaintiff,

vs.

BUDGET RENT A CAR SYSTEM, INC., *et al.*,

Defendants.

CASE NO. 11-cv-00722 BEN (JMA)

**ORDER REMANDING  
ACTION TO SAN DIEGO  
COUNTY SUPERIOR COURT**

On August 1, 2011, the Court held a hearing for dismissal for want of prosecution pursuant to Federal Rule of Civil Procedure 4(m) as to Defendants Budget Rent a Car System, Inc. ("Budget") and Avis Budget Group, Inc. ("Avis").

This action was originally filed in the San Diego County Superior Court. Plaintiff alleged that in January 2010, Defendant Raymond Nardelli negligently operated a rental car, causing a collision with Plaintiff's vehicle. The complaint asserted two causes of action: (1) motor vehicle and (2) general negligence. This action was removed from the San Diego County Superior Court on April 8, 2011, by Nardelli. (Docket No. 1.) At that time, Budget, Avis, and Nardelli were named as defendants. On April 15, 2011, Defendant Nardelli filed an ex parte motion for the United States to be substituted as a party in the place of Nardelli. (Docket No. 4.) On May 3, 2011, the Court granted this motion. On May 20, 2011, Plaintiff voluntarily dismissed the United States. (Docket No. 8.) Accordingly, only Defendants Budget and Avis remain.

At the hearing, Plaintiff's counsel represented to the Court that she had served Budget and Avis

1 in state court. In addition, she orally moved to have the case remanded to the San Diego County  
2 Superior Court. Because the Court lost subject matter jurisdiction over this action when the United  
3 States was dismissed as a defendant, this action is **REMANDED** to the San Diego County Superior  
4 Court. *See* 28 U.S.C. § 1447(c) ("If at any time before final judgment it appears that the district court  
5 lacks subject matter jurisdiction, the case shall be remanded.").

6  
7 **IT IS SO ORDERED.**

8  
9 DATED: August 4, 2011

  
HON. ROGER T. BENITEZ  
United States District Court Judge